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# PROGRESS IN MENACE CASE: ROME ADMITS REAL PURP

VERY indication points to the prospect of The Menace and its editors going to trial on Flag Day-June 14-at Joplin. An application has been made for a continuance of the case. This application has been made necessary by the amount of time taken by the court in ruling upon the preliminary motions.

It is impossible to predict what the ruling of the court will be on the motion for continuance to the January term, but the court has thus far overruled each and every motion made by the attorneys of The Free Press Defense League in behalf of the defendants, Wilbur F. Phelps, Rev. Theodore C. Walker, Marvin Brown and B. M. Phelps. If the motion for a continuance is overruled, the case must come to trial on the date for which it is now set, June

From time to time, The Free Press Defense League has furnished Menace readers indisputable evidence of two facts:

First, that Rome is responsible for the indictment of The Menace and the men who, through The Menace, have waged long and vigprous warfare for American institutions.

Second, that the destruction of The Menace, through the conviction of its editors, is but the first step in Rome's plan to destroy the liberty of the press in America-to make it forever impossible for an American newspaper or magazine to criticize or expose any act of the Roman hierarchy.

The Free Press Defense League now finds that all its pains in proving the case against the hierarchy is in vain. For the hierarchy not only admits both charges to be true, but actually boasts of them.

The Tablet is a Romanist newspaper published in Brooklyn, N. Y. It publishes at the head of its editorial page the fact that it is issued "with the approbation of the Rt. Rev. Charles E. McDonnell, D. D., bishop of Brooklyn" and it is known to be the mouthpiece of Cardinal Farley.

Couched in the abusive language usual to Romanist publications in commenting upon non-Romanist papers, is an article in the issue of May 8, dealing with the indictment against The Menace. That article admits only too plainly the purpose of the hierarchy—that of destroying the free press. Here is an extract:

"The case will be tried in Joplin in June. If the government wins this case, which is very likely, over forty similar publications in this country, whose main object is to slander our clergy and Sisterhoods, will probably be indicted also. Already they are planning ways and means of getting immense funds to fight the trial. The 'subs''-their regular wail-continues but to it has been added the cry for contributions "to defend They are in a bad way. THE MENACE free speech. itself sees the handwriting on the wall and is already starting the publication of another bigoted sheet THE LIBERTY BELL, with which to rake in the shekels if the government decides that the first nuisance maintained by them is too offensive."

The Liberty Bell, by the way, is not an anti-Romanist publication, but a publication devoted to patriotism and woman suffrage! This fact is well known to everyone who knows anything at all concerning The Liberty Bell, and is important as throwing light upon what the Roman hierarchy considers "bigoted." Patriotism, in the minds of the hierarchy, has always spelled "bigotry," and is the real reason for the prosecution of The Menace.

In this matter, Rome knows whereof it speaks. You can count upon it, Mr. Patriot, you can count upon it, lover of liberty, that if The Menace is convicted, if Phelps and Brown and Walker go to the penitentiary for the preaching of patriotism, indictments will be brought immediately against at least forty other publications. And it is a generally accepted fact that this number includes not only anti-Romanist papers, but Protestant, Masonic and purely patriotic publications! The hand of Rome is exposed as it reaches forth to snuff the light of the patriotic press!

If Rome succeeds, it will be a crime in America to preach loyalty to the American government and American institutions, where that loyalty conflicts with the interest of Rome!

## **Would Take Pope's Deposition**

MANY weeks ago the attorneys for the Free Press Defense League selected two of their number-Hon, Edward C. Gates of Ft. Scott, Kan., and Theodore Schroeder of New York, the former a lawyer of note and the latter famous as an authority upon the legal rights of the press—to go to Rome to procure, if it were humanly possible, the deposi-

#### (Cut out and mail this coupes with your contribution TODAY) The Free Press Defense League Fort Scott, Kansas

WILBUR F. PHELPS, President J. I. SHEPPARD, Secretary I hereby make application for membership in The Free Press Defense League and I enclose \$...... as my contribution for the purposes of the League.

I understand that in consideration of this contribution, I am to receive a receipt and membership card. Also that after the first year I am to have a voice in the management of the organization and in the election of officers.

Street or Rural Route .....

tale . 111 automorphismo terrorio compresa

Corporation; Wilbur F. Phelps, Bruce M. Phelps, Theodore C. Walker and Defendants. Marvin Brown.

APPLICATION FOR CONTINUANCE

Come now the defendants above named and move the court to grant to them a continuance of this cause until the next term of this court, and as grounds therefor say; for more than

-:- PATRIOTS, RALLY ON FLAG DAY! -:-PON this page The Free Press Defense League furnishes fresh proof, in the words of an organ of the

Romanist hierarchy, that this same hierarchy is the real prosecutor of The Menace. It further furnishes fresh proof that the prosecution of The Menace is but a step toward making it a crime for a newspaper to preach patriotism in the United States of America.

Shall we reward our patriots--men who have the splendid courage to defy "eternal Rome"---with sentences in the penitentiary? Shall Phelps and Walker and Brown and hundreds of men like them cease to fight our battles and languish in prison to please the tyrant of the Tiber?

It is for the modern "minute men"---soldiers of the Common Good---to answer! The Free Press Defense League, organized to fight no man's religion, but insure liberty of conscience and freedom of the press, headed by Wilbur F. Phelps, founder of The Menace, and organized by Jacob I. Sheppard, veteran of many free-speech battles, still sounds the call:

"MAKE IT A MILLION MEMBERS ON FLAG DAY!"

With a million members-and if each man and woman on the Firing Line responds there will be a million-the fight for freedom, the last fight waged against a foreign tyrant upon American soil, will be won!

An application for a continuance of the case against The Menace has been made. All other motions have been overruled by the court and this may meet a like fate. We must be prepared to face the enemy on the date chosen by the government---June 14---the anniversary of the day when the American banner, heralding a new birth of freedom, was first unfurled.

Rally, patriots! Marshal your friends! Give Flag Day a New Meaning!

Make it the birthday of a new and more glorious American liberty---a liberty that has need to shrink neither from ostracism, boycott, blackmail nor murder at the hands of the minions of Rome!

tions of Pope Benedict XV and his closest ad-

In the records of the vatican at Rome lie the answers to the questions that the world has been asking about the Romanist church for nearly fifteen centuries. If the Roman hierarchy is not a machine for political oppression, graft and exploitation, the answer lies there. If there is, under heaven, a defense of the hierarchy of Rome that can clear its skirts of the indictment of treason, robbery, murder, and crimes unspeakable-an indictment brought now, and brought centuries ago, in this and in every other land where Rome has put forth her hand-if there is anywhere a defense against this universal ageold, but ever new indictment, the pope has at hand the means of silencing that charge forever.

And if there exists anywhere the proof of the guilt or the innocence of the publishers of THE IENACE, the first and best evi nce is that which is under lock and key at the order of Pope Bene-

dict XV at Rome. So it was desired by the Free Press Defense League to take the depositions of the pope and his immediate subordinates. It was desired, further, if this could not be done, to demonstrate to the world the truth of one charge, at least-that the pope arrogates to himself the power of temporal monarch and, defying the laws of all na-

tions, setting them all at naught, he still exacts from his followers in every land, oaths which are treasonable to those nations. A sneer went up from the Romanist press. It made fun of this "bluff" upon the part of the Free Press Defense League. It declared that the offer was not made in good faith. It admitted that the pope holds himself above the laws of nations

But there was filed in the federal court at Kansas City on Tuesday, May 11, the most remarkable motion of its kind ever filed in a case in a United States court. That motion asked for a continuance of the case against THE MENACE and the men who make THE MENACE.

and chuckled at the very idea of demanding his

It based the request upon the necessity of taking or attempting to take the depositions of the pope and his advisers. It pointed out that if the pope refused to give his deposition, the way would then be open to prove by documents existing in the United States and by witnesses available here, the charges made by THE MENACE against the Romanist hierarchy. And it also pointed out that under a well recognized rule of aw, the documents and certain witnesses available here are classed as "secondary evidence" and cannot be used unless all possible efforts to procure the "primary evidence," which would be the pope's deposition and those of his advisers—have en made.

The motion for a continuance is destined to be an historical document. It is the first attempt to arraign the Romanist hierarchy in a court of record. It reads as follows:

In The District Court of the United States Western District of Missouri, Southwestern Division.

United States, The Menace Publishing Company, a

four years last past they have been continually engaged in publishing, at Aurora, Missouri, the newspaper called The Menace; that the object and purpose of said defendants in publishing said newspaper, was and is to arouse people of United States to grave dangers which threatened the destruction of our free institutions through machination, intrigue, and conspiracy on the part of the dignitaries and politicians of the Roman Catholic church.

The defendants allege the fact to be that for more than a thousand years it has been the unvarying policy of the Roman Catholic church, to oppose free government and to keep the masses of the people uneducated and in ignorance; that by a vast system of corruption, persecution, espionage, intimidation, boycott, tyranny and oftimes even murder, this organization has held sway, at one time or another, every civilized country on earth, to the great detriment of the people.

The defendants aver that by means of attacks made by fearless men and women through the press in other countries, the grip of this monster of iniquity, has been broken and it has become in many of them an outlaw; that it is only in our own country that it has been left free to threaten, browbeat and bully the people and their government; that most of its evil practices and methods are as boldly carried on in the United States now as they were in the time of the Spanish Inquisition.

The defendants allege that those who are in control of the Roman Catholic church are in bitter opposition to the freedom of the press and to freedom of speech; that they oppose and seek to destroy our public school system; that they are opposed to and seek to destroy all other forms of religious worship than those sanctioned by them, and that they declare and insist that the civil power of our government is subordinate and inferior to the power of the Roman Catholic church, as manifested and ordained by its chief dignitary, the Pope, and that when questions of jurisdiction arise between our government and the authority of the Pope our government should yield the disputed point or proposition.

The defendants further allege that all the Cardinals, Bishops and Priests of the Roman Catholic church in the United States take and subscribe to oaths, at the time they assume their duties for the church, which said oaths are hostile and traiterous to the government of the United States; and that these oaths so taken, are on file in the Vatican at Rome, Italy, and are under the control of Giacomo Della Chiesa, known also as Pope Benedict XV.; that there are in the files of the Vatican in Rome, Italy, under control of said Giacomo Della Chiesa and his secretary and his keeper of records, (whose names are to these defendants unknown), the originals of various letters and documents, known as Encyclicals and Bulls, which have been promulgated and issued by the Popes of the Roman Catholic church to the officials of said church in the United States of America from time to time for more than one hundred years; which said letters and documents directed and advised the said Roman Oatholic officials, to teach and preach enmity and disloyalty to the free institutions loved and cherished by the American people.

These defendants were at all times mentioned in the indictment herein, publishing The Menace and selling books and other literature for the high purpose of challenging attention to great flagrant wrongs which were being committed by the Roman Catholic Hierarchy

against our government and its people.

The defendants further allege that it became necessary for them to do this, because our law-making and law-enforcing officers, either

through fear or favor, utterly failed in their duty to check and punish such unlawful and treasonable practices.

The defendants aver that in carrying on their campaign of publicity, as aforesaid, against this great evil, it became necessary, as the defendants in good faith then believed and still believe, to use "plain language, even though it might be offensive to ears polite.

The defendants allege that they had good precedent for proceeding in this manner, as the United States court in the Harmon case, reported in 38 Federal at page 287, said, "The question of obscenity, in any particular article, must depend largely, on the place, manner and object of its publication. It would not be proper to discuss certain matters in a family newspaper which might be discussed with propriety in a medical journal. Again, if the was in good faith attacking some great flagrant wrong, the use of plain language, although, offensive to ears polite, might be permitted."

The defendants allege that the proof of the allegations hereinbefore set out again officials of the Roman Catholic church is the sary, and material in the defense of this cause, for the reason that Roman Catholic lawyers, politicians and dignitaries have brought about and caused the indictment of these defendants upon little extracts and excerpts, taken from the body of news items and editorial writings in the newspaper. The Menace, and in the books sold by these defendants; and this prosecution was so fostered and encouraged and brought about for the sole purpose, not of keeping the mails pure or of doing good for the people of the United States, but of preventing these defendants from further arousing the people to the vicious methods and the unlawful and dangerous conduct and practices of the Roman Hierarchy; that it therefore becomes necessary for the defendants in this case in the proper preparation for their trial to take the testimony by desposition, of the said Giacomo Della Chiesa, and his secretary and his keeper of records at Rome, Italy, as to the oaths, papers, letters and documents referred to hereinbefore, as being now on file, in the Vatican at Rome, Italy.

The defendants do not say to the court, however, that they will be able to take the deposition of said persons, but they do say that it is necessary for them to in good faith make the attempt to take said depositions, and that if said persons, refuse to give testimony when properly called upon to do so by a commissioner appointed by this court, then the defendants will be in position, to introduce secondary evidence,

as to the contents of said letters and documents. The defendants allege, as a reason for not having heretofore taken or having attempted to take the deposition of said persons, and for the purpose of showing due diligence on the part of these de semiants in regard to preparing their case for trial, that when the indictment was returned against them they employed counsel, and upon examination of the indictment, by the attorneys so employed, they the said attorneys, gave as their opinion that the matters and things charged in the indictment, did not constitute an offense against the law

The defendants further allege that their attorneys took charge of the case and filed a motion, asking the court for an order, requiring the district attorney to furnish a Bill of Particulars, so that the whole of the articles from which the little extracts and excerpts contained in the indictment were taken, and which were charged to be obscene, could be brought before the court so that the court could intelligently pass upon a motion to quash the indictment

or upon a demurrer to said indictment. motion was based upon the unvarying decisions of the United States courts that in order to determine whether any particular matter contained in a publication is obscene, "the whole of the matter alleged to be obscene must be taken and construed together with the entire article or publication in which the alleged obscene matter appears, and that also so much of the context of said article as is necessary to a proper understanding of it must also be taken into consideration in determining whether or not the matter so charged is obscene." March 29, 1915, the court refused this request which had been made in writing a considerable time prior thereto.

Notwithstanding this refusal on the part of the court, the defendants on said 29th day of March argued their motion to quash the indictment and their demurrer to the same. court took these matters under advisement, and thereafter and not until April 28, 1915, the court rendered its decision and over-ruled both the motion to quash and the demurrer, and set the cause for trial on June 14, 1915.

The defendants did not, and could not know, until the court had ruled upon said motion and demurrer, what portion, if any, of the said indictment they would be called upon to defend against. Therefore, they could not take their proof in preparation for the trial until such ruling.

After the court had rendered its decision on April 28, 1915, the time elapsing until June 14, 1915, the date set for trial, was insufficient to allow of the taking of depositions in Rome,

Italy. The defendants allege that they will, if this cause is continued until the next term of this court, have their attorneys proceed to Rome and take the said dispositions or at least make in good faith an attempt to take testimony of Giacomo Della Chiesa, and his secretary, and his keeper of records and have the same before the court at the next regular term thereof.

The defendants allege, that the testimony, heretofore referred to, is material in their defense, and they cannot procure the same from any other source than herein alleged, and that they cannot safely proceed to trial without it,

J. I. Sheppard, A Map tool by J. L. McNatt, Attorneys for Defendants,

State of Missouri, - Winner Helidfler !

Jackson County .- ss. Wilbur F. Phelps, being duly sworn, says that he is one of the defendants, in the above entitled action, and that he makes this affidavit on behalf of himself and his co-defendants; that he has read the foregoing aplication for continuance, and knows the contents thereof, and he swears that of his own knowledge, the allegations as to the conduct and action of himself and his co-defendants are true, and as to the other matters and things contained in said application the affiant swears they are true, as he is informed and verily believes.

Wilbur F. Phelps. Subscribed and sworn to before me, Clerk of the District Court aforesaid, this 11th day of May, 1915.

John B. Warner, Clerk of the District Court of the United States, for the Western District of Missourt, Southwestern Division.

Is is expected that the court will pass upon this motion in time for the result to be announced in the next issue of The Menace. the motion is granted, the necessary steps for procuring the depositions of the Pope and his advisers-or of demonstrating their defiance of the government of the United States-will be taken at once. If the motion is over-ruled, preparations for trial will proceed. No matter what the fate of this motion may be, The Free Press Defense League will be prepared to prove in one way or another, that THE MENACE HAS BEEN TELLING THE TRUTH CON-CERNING THE ROMANIST HIERARCHY AND THAT PLAIN LANGUAGE WAS NEC-ESSARY IN ORDER TO AROUSE THE PEO. THEIR DANGER!

# **BULLETIN BOARD**

Total number of members of The Free Press Defens League received up to May 14, 1915.

Total amount of money received by The Free Press Defense League up to May 14, 1915....\$12,782.74

### AFFIDAVITS

State of Kansas. It'h Sign :

Bourbon County .- 68. W. T. Seagraves, being duly sworn, says: I am cashier of the Peoples' State Bank of Fort Scott, Kas. ; there has been deposited in this bank to this date by The Free Press Defense League a total of \$12,782.74

W. T. SEAGBAVES. Subscribed and sworn to before me this 14th day of

May, 1915. ELUIE FREEMAN, Notary Public. My commission expires on the 3rd day of May, 1918,

State of Kansas, Bourbon County .- 48

C. P. Frey, being duly sworn, says, since the organization of The Free Press Defense League began, I have had charge of the membership books and there have been enrolled to this date 8,922 members of said League. C. P. PREY.

Subscribed and sworn to before me this 14th day of ELSIN FREEMAN, Notory Public. My commission expires on the 3rd day of Mar, 1916